

REMARKS

Claims 1-3 and 6-21 were pending at the time of the last office action. Applicant has amended claims 1 and 14 and presented new claim 36. Thus, claims 1-3, 6-21, and 36 are now pending.

The Examiner has objected to claim 14 based on an informality. Applicant has amended claim 14 as suggested by the Examiner.

The Examiner has rejected claims 1 and 14 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant has amended claims 1 and 14 as suggested by the Examiner.

The Examiner has rejected, under 35 U.S.C. § 103(a) as being unpatentable, claims 1-3, 6, 7, and 11-18 over Briscoe, Frankel or Hauser, and Wrona, and claims 8-10 and 19-21 over Briscoe/Frankel/Wrona or Briscoe/Hauser/Wrona and what the Examiner believes is admitted prior art.

The Examiner is ignoring language of the claims when assessing patentability on the assertion that the language “is only found in the nonfunctional descriptive material and does not affect how the claimed invention functions [and] ... will not distinguish the claimed invention from the prior art in terms of patentability.” (Office Action, Nov. 16, 2009, p. 12.)

Independent claim 1 recites “receiving from the service provider a specification of a number of services within a billing unit for services provided by the service provider for the service consumer.” Thus, the method recites that the computer system actually receives “a specification of a number of services” “from the service provider.” Claim 1 further recites “providing by the processor the end code to the service provider.” Thus, after receiving a specification from “the service provider,” claim 1 recites providing an end code to that same service provider. Clearly, from whom the specification is

received, functionally affects to whom the end code is provided. Claim 1 further recites "sending by the processor to the service provider a request for service." Here again, the claimed method does not just send a request to some entity but specifically sends the request to the same service provider from whom the specification was received, which, of course, affects the function of the method.

Independent claim 14 recites "providing by the processor to a service intermediary a number of services" and "receiving from the service intermediary an end code." Claim 14 thus recites that the method provides a number to a "service intermediary" and then receives from that same "service intermediary" an end code. Thus, the recitation of the "service intermediary" in the providing step clearly affects how a subsequent step functions.

Applicant respectfully submits that the language of a "service provider" of claim 1 and a "service intermediary" of claim 14 are functional as they affect how the claimed method functions.

New claim 36 also specifically recites that a service consumer computer receives a specification from a service provider computer and that the service provider computer sends the specification to the service consumer computer. The claim further recites that the service consumer computer sends requests for services to the service provider computer and that the service provider computer receives the requests and performs the requested services. Thus, claim 36 clearly recites functional language that is similar to the language of claim 1, which the Examiner has ignored in assessing patentability and which clearly distinguish the prior art as explained in applicant's response of August 18, 2009.

The Examiner has provisionally rejected claims 1-3 and 6-21 based on nonstatutory obviousness-type double patenting based on U.S. Patent Application No. 10/789,808. The Examiner, however, has provided no explanation as to why he

believes that the claims are "not patentably distinct." As such, the Examiner has not established a prima facie case of double patenting. Since the rejection is provisional, applicant will further address the rejection, if and when, it is made nonprovisional.

Based upon the above amendments and remarks, applicant respectfully requests reconsideration of this application and its early allowance. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-8548.

Please charge any deficiencies or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 418268003US from which the undersigned is authorized to draw.

Dated: 1/15/2010

Respectfully submitted,

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